

UNITED STATES SECURITIES AND EXCHANGE COMMISSION Washington, D.C. 20549

FORM D

NOTICE OF SALE OF SECURITIES
PURSUANT TO REGULATION D,
SECTION 4(6), AND/OR
UNIFORM LIMITED OFFERING EXEMPTION

OMB	APF	PRO	V.	AL
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OMB Number: 3235-0076 Expires: December 31, 1993 Estimated average burden hours per form 16.00

SEC USE ONLY						
Prefix		Serial				
DAT	E RECEIV	VED				

Name of Offering (check if this is an amendment of Note and warr		and indicate change.) Se	eries D Preferred Stock Fi	nancing
		ule 505 🔲 Rı	ile 506 Section	4(6) ☐ULOE
Type of Filing:	⊠New Filin	g	☐ Amendmen	CEDEIVED CON
	A. BASIC IDENTII	FICATION DATA		1/9 0000
1. Enter the information requested about the is	suer		30	IN I SE COURT
Name of Issuer (check if this is an amendment AviGenics, inc.	nt and name has changed, ar	nd indicate change.)		N 197 AS
Address of Executive Offices	(Number and Street, City,		Telephone Number (In	cluding Area Code)
111 Riverbend Road	Athens	GA 30605	(706) 227-1170	
Address of Principal Business Operations	(Number and Street, City,		Telephone Number (In	cluding Area Code)
111 Riverbend Road	Athens	GA 30605	(706) 227-1170	
Brief Description of Business				
Type of Business Organization				
⊠ corporation	☐limited partnership, alr	eady formed	other (please	specify)
business trust	☐limited partnership, to	be formed		
·	Mo	nth Year		
Actual or Estimated Date of Incorporation or Or	ganization: 02	1996		Estimated
Jurisdiction of Incorporation or Organization:	(Enter two-letter U.S. Pos CN for Canada, FN for ot		for State: CA	

GENERAL INSTRUCTIONS

Federal:

Who Must File: All issuers making an offering of securities in reliance on an exemption under Regulation D or Section 4(6), 17 CFR 230.501 et seq. or 15 U.S.C 77d(6).

When to File: A notice must be filed no later than 15 days after the first sale of securities in the offering. A notice is deemed filed with the U.S. Securities and Exchange Commission (SEC) on the earlier of the date it is received by the SEC at the address given below or, if received at that address after the date on which it is due, on the date it was mailed by United States registered or certified mail to that address.

Where to File: U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

Copies Required: Five (5) copies of this notice must be filed with the SEC, one of which must be manually signed. Any copies not manually signed must be photocopies of the manually signed copy or bear typed or printed signatures.

Information Required: A new filing must contain all information requested. Amendments need only report the name of the issuer and offering, any changes thereto, the information requested in Part C, and any material changes from the information previously supplied in Parts A and B. Part E and the Appendix need not be filed with the SEC.

Filing Fee: There is no federal filing fee.

State:

This notice shall be used to indicate reliance on the Uniform Limited Offering Exemption (ULOE) for sales of securities in those states that have adopted ULOE and that have adopted this form. Issuers relying on ULOE must file a separate notice with the Securities Administrator in each state where sales are to be, or have been made. If a state requires the payment of a fee as a precondition to the claim for the exemption, a fee in the proper amount shall accompany this form. This notice shall be filed in the appropriate states in accordance with state law. The Appendix to the notice constitutes a part of this notice and must be completed.

ATTENTION

Failure to file notice in the appropriate states will not result in a loss of the federal exemption. Conversely, failure to file the appropriate federal notice will not result in a loss of an available state exemption unless such exemption is predicated on the filing of a federal notice.

Δ.	RA	SIC	TDEN'	TIFICA	TION	DATA

- 2. Enter the information requested for the following:
 - Each promoter of the issuer, if the issuer has been organized within the past five years;
 - Each beneficial owner having the power to vote or dispose, or direct the vote or disposition of, 10% or more of a class of equity securities of the issuer;
 - Each executive officer and director of corporate issuers and of corporate general and managing partners of partnership issuers; and

	•	a of corporate general and managing partners of	partitership issuers, and
 Each general and ma 	anaging partner of partnership issuers.		
Check Box(es)	Promoter	⊠Beneficial Owner	Executive Officer
that Apply:	Director	General and/or Managing Partner	
Full Name (Last name first, i	if individual)		
Ivarie, Robert			
Business or Residence Addre	ess (Number and Street, City, State, 2	Zip Code)	1000
c/o AviGenics, inc., 111 Riv	verbend Road, Athens, GA 30605		
Check Box(es)	Promoter	☐Beneficial Owner	Executive Officer
that Apply:	Director	General and/or Managing Partner	
Full Name (Last name first, i	if individual)		
Lum, Aileen			
Business or Residence Addre	ess (Number and Street, City, State, Z	ip Code)	
c/o Taraval Associates, 845	Oak Grove Avenue, Suite 220, Mer		
Check Box(es)	Promoter	⊠Beneficial Owner	Executive Officer
that Apply:	⊠Director	General and/or Managing Partner	
Full Name (Last name first, i	if individual)		
Murphy, George F., Jr.			
Business or Residence Addre	ess (Number and Street, City, State, Z	ip Code)	
c/o Taraval Associates, 845	Oak Grove Avenue, Suite 220, Mer	ilo Park, CA 94025	
Check Box(es)	Promoter	⊠Beneficial Owner	Executive Officer
that Apply:	Director	General and/or Managing Partner	
Full Name (Last name first, i	if individual)		
Cordova Technology Partn	ers, L.P.		
Business or Residence Addre	ess (Number and Street, City, State, Z	ip Code)	
2500 North Winds Parkway	y, Suite 475, Alpharetta, GA 30004	•	
Check Box(es)	Promoter	Beneficial Owner	Executive Officer
that Apply:	☑Director	General and/or Managing Partner	
Full Name (Last name first, i	if individual)		
Biggar, Steve			
Business or Residence Addre	ess (Number and Street, City, State, Z	ip Code)	
c/o AviGenics, inc., 111 Riv	verbend Road, Athens, GA 30602		
Check Box(es)	Promoter	Beneficial Owner	⊠Executive Officer
that Apply:	☑Director	General and/or Managing Partner	
Full Name (Last name first, i	if individual)		
Deo, Yashwant	·		
Business or Residence Addre	ess (Number and Street, City, State, Z	ip Code)	
	verbend Road, Athens, GA 30605	· · · · · · · · · · · · · · · · · · ·	
Check Box(es)	Promoter	⊠Beneficial Owner	Executive Officer
that Apply:	☐ Director	General and/or Managing Partner	
Full Name (Last name first, i			
Marhaver, Carl	,	•	
	ess (Number and Street, City, State, Z	ip Code)	
716 St. Andrews Drive, Wie		•	
Check Box(es)	Promoter	Beneficial Ownfer	Executive Officer
that Apply:	Director	General and/or Managing Partner	-
Full Name (Last name first, i			
Clinola Partners, L.P.	•		
	ess (Number and Street, City, State, Z	ip Code)	
1 North field Plaza, Suite 5.		r/	
	·		

A. BASIC IDENTIFICATION DATA								
 Each promoter Each beneficial the issuer; Each executive 	I owner having the power to vote	en organized within the past five years; or dispose, or direct the vote or disposition of, 10% or mo issuers and of corporate general and managing partners or						
Check Box(es)	Promoter	Beneficial Owner	Executive Officer					
that Apply:	⊠Director	General and/or Managing Partner	•					
Full Name (Last name : Hohnke, Lyle	first, if individual)							
	Address (Number and Street, City, 4th Floor, Greenwich, CT 068	• • • •						
Check Box(es)	Promoter	⊠Beneficial Owner	☐Executive Officer					
that Apply:	Director	General and/or Managing Partner						
Full Name (Last name : Oakwood Laboratorie								
	Address (Number and Street, City Box 461027, Oakwood, OH 44							
Check Box(es)	Promoter	⊠Beneficial Owner	☐Executive Officer					
that Apply:	Director	☐General and/or Managing Partner						
Full Name (Last riame to TD Javelin Capital Fu								
	Address (Number and Street, Cityuite 240, Birmingham, AL 3522							
Check Box(es)	Promoter	⊠Beneficial Owner	Executive Officer					
that Apply:	Director	General and/or Managing Partner						
Full Name (Last name a Burton J. McMurtry,	first, if individual) TTEE of the McMurtry Family	y Trust						
Business or Residence . 130 Portola Road, Por	Address (Number and Street, City tola Valley, CA 94028	y, State, Zip Code)						
Check Box(es)	Promoter	Beneficial Owner	☐Executive Officer					
that Apply:	☑Director	General and/or Managing Partner						
Full Name (Last name the Baker, Felix	first, if individual)							
	Address (Number and Street, City 17th Floor, New York, NY 1002							

⊠Beneficial Owner

☐General and/or Managing Partner

Check Box(es)

that Apply: Director

Full Name (Last name first, if individual) Kitty Hawk Capital Ltd. Partnership IV

2700 Coltsgate Road, Suite 202, Charlotte, NC 28211

Promoter Director

Business or Residence Address (Number and Street, City, State, Zip Code)

Executive Officer

B. INFORMATION ASOUT OFFERING 1. Has the issuer sold, or does the issuer intend to sell, to non-accredited investors in this offering? Yes No Answer also in Appendix, Column 2, if filing under ULOE. 2. What is the minimum investment that will be accepted from any individual? Yes No No No No No No No No No N													
Answer also in Appendix, Column 2, if filing under ULOE. 2. What is the minimum investment that will be accepted from any individual?"					В.	INFORMA	TION ABO	UT OFFER	UNG				
3. Does the offering permit joint ownership of a single unit?	1. Has	the issuer so	old, or does	the issuer in					_		Yes 🗌	No 🛭	
4. Enter the information requested for each person who has been or will be paid or given, directly, or indirectly, any commission or similar remuneration for solicitation of purchasers in connection with sales of securities in the offering. If a person to be listed is an associated person or agent of a broker or dealer registered with the SEC and/or with a state or states, list the name of the broker or dealer. If more than five (3) persons to be listed are associated persons of such a broker or dealer, you may set forth the information for that broker or dealer only. Full Name (Last name first, if individual) Business or Residence Address (Number and Street, Ciry, State, Zip Code) Name of Associated Broker or Dealer States in Which Person Listed Has Solicited or Intends to Solicit Purchasers (Check "All States" or check individual States). [AL] (AK] (AZ] (AR] (CA) (CO) (CT] (DE) (DC) (FL] (GA) (HI] (ID) (IL) (IN) (IN) (IN) (IN) (IN) (IN) (IN) (IN	2. Wha	t is the mini	mum invest	tment that w	ill be accept	ed from any	individual?	•••••			\$ <u>n/a</u>		
remuneration for solicitation of purchasers in connection with sales of securities in the offering. If a person to be listed is an associated person or agent of a broker or dealer registered with the SEC and/or with a state or states, list the name of the broker or dealer. There than five (5) persons to be listed are associated persons of such a broker or dealer, you may set forth the information for that broker or dealer only. Full Name (Last name first, if individual) Business or Residence Address (Number and Street, City, State, Zip Code) Name of Associated Broker or Dealer States in Which Person Listed Has Solicited or Intends to Solicit Purchasers (Check "All States" or check individual States) [AL] [AK] [AZ] [AR] [CA] [CO] [CT] [DE] [DC] [FL] [GA] [HI] [ID] [IL] [IN] [IA] [KS] [KY] [LA] [ME] [MD] [MA] [MI] [MN] [MY] [MY] [PR] [PA] [PA] [PA] [PA] [PA] [PA] [PA] [PA	3. Does	the offering	g permit joi	nt ownership	of a single	unit?				*************	Yes 🗌	No 🖾	•
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Business or Residence Address (Number and Street, City, State, Zip Code)							1						
Business or Residence Address (Number and Street, City, State, Zip Code)	•			•		(•		
Name of Associated Broker or Dealer	Full Nam	ne (Last nan	ne first, if in	dividual)		·							
States in Which Person Listed Has Solicited or Intends to Solicit Purchasers	Business	or Residen	ce Address	(Number and	d Street, Cit	y, State, Zip	Code)			1			
Check "All States" or check individual States	Name of	Associated	Broker or D	Dealer						· · · · · · · · · · · · · · · · · · ·			
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States in Which Person Listed Has Solicited or Intends to Solicit Purchasers (Check "All States" or check individual States)	Business	or Residence	e Address	(Number and	Street, City	y, State, Zip	Code)						
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b. Enter the difference between the aggregate offering price given in res Part C - Question 1 and total expenses furnished in response to Part C - Question 4.a. This difference is the "adjusted gross proceeds to the issue	•	
5. Indicate below the amount of the adjusted gross proceeds to the issuer us proposed to be used for each of the purposes shown. If the amount for a purpose is not known, furnish an estimate and check the box to the left o estimate. The total of the payments listed must equal the adjusted gross to the issuer set forth in response to Part C - Question 4.b above.	ny fthe	
	Payment to Officers, Directors, & Affiliates	
Salaries and fees. Purchase of real estate Purchase, rental or leasing and installation of machinery and equipment Construction or leasing of plant buildings and facilities Acquisition of other businesses (including the value of securities involved in offering that may be used in exchange for the assets or securities of another i	\$	\$\$ \$\$ \$\$ \$
Pursuant to a merger) Repayment of indebtedness Working capital Other (specify):	S S	□ \$ <u>-0-</u> ⊠ \$ <u>4,535,000</u>
Column Totals	\$0-	\$4,535,000 000
D. FEDERAL S	IGNATURE	
The issuer had duly caused this notice to be signed by the undersigned duly a signature constitutes an undertaking by the issuer to furnish to the U.S. Secur information furnished by the issuer to any non-accredited investor pursuant to	rities and Exchange Commission, upon writi	er Rule 505, the following ten request of its staff, the
Issuer (Print or Type) AviGenics, inc.	Signature	Date May 12, 2004
Name of Signer (Print or Type)	Title-of signer (Print or Type)	May 12, 2004
Kyle V. Guse	Attorney - in - Fact	
Tayle V. Guse	<u> </u>	

ATTENTION

Intentional misstatements or omissions of fact constitute federal criminal violations. (See 18U.S.C. 1001.)

E. STATE SIGNATURE

1. Is any party described in 17 CFR 230.252(c), (d), (e) or (f) presently subject to any of the disqualification provisions of such rule? Yes ☐ No ☒

See Appendix, Column 5, for state response.

- 2. The undersigned issuer hereby undertakes to furnish to the state administrator of any state in which the notice is filed, a notice on Form D (17 CFR 239.500) at such times as required by state law.
- 3. The undersigned issuer hereby undertakes to furnish to any state administrators, upon written request, information furnished by the issuer to offerees.
- 4. The undersigned issuer represents that the issuer is familiar with the conditions that must be satisfied to be entitled to the Uniform limited Offering Exemption (ULOE) of the state in which this notice is filed and understands that the issuer claiming the availability of this exemption has the burden of establishing that these conditions have been satisfied.

The issuer has read this notification and knows the contents to be true and has duly caused this notice to be signed on its behalf by the undersigned duly authorized person.

Issuer (Print or Type) AviGenics, inc.	Signature	Date May 12, 2004
Name (Print or Type)	Title (Paint or Type)	
Kyle V. Guse	Attorney-in-Fa	et

Instruction:

Print the name and title of the signing representative under his signature for the state portion of this form. One copy of every notice on Form D must be manually signed. Any copies not manually signed must be photocopies of the manually signed copy or bear typed or printed signatures.

			A	PPENDIX					
1		2	3			4			5
		to non-accredited ate (Part B-Item 1)	Type of security and aggregate offering price offered in State (Part C-Item 1)	Type of i	Type of investor and amount purchased in State (Part C-Item 2)			under St (if yes explan waiver	lification ate ULOE , attach ation of granted -Item 1)
State	Yes	, No	Convertible Secured Promissory Note and Warrant	Number of Accredited Investors	Amount	Number of Non- Accredited Investors	Amount	Yes	No
AL									
AK									
AZ									
AR									
CA									
СО									
СТ		X	\$404,167	2	\$404,167	0	0		X
DE									
DC									
FL									
GA		Х	\$126,267	1	\$126,267	0	0		X
HI									
ID									
IL									
IN									
IA ·									
KS									
KY									
LA									
ME									
MD							,		

2 3 5 Disqualific Type of security ation under and aggregate State offering price ULOE (if yes, attach Intend to sell offered in State Type of investor (Part C-Item 1) and amount explanatio to nonpurchased in State accredited n of waiver investors in (Part C-Item 2) granted State (Part B-(Part E-Item 1) Item 1) Convertible Number of Secured Number of Non-Promissory Note Accredited Accredited and Warrant State Yes Investors Investors Yes No No Amount Amount ΜI MN MS MO MT NE NV NH NJ NM NY X \$833,332 4 \$833,332 0 0 X NC X \$189,567 \$189,567 0 0 X 1 ND ОН OK OR PΑ R! SC SD TN

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1	2	3	4	5		1]
	Intend to sell to non- accredited investors in State (Part B- Item 1)	Type of security and aggregate offering price offered in State (Part C-Item 1)	Type of investor and amount purchased in State (Part C-Item 2)	Disqualific ation under State ULOE (if yes, attach explanation of waiver granted (Part E-Item 1)					
State	Yes	No	Secured Convertible Promissory Note and Warrant	Number of Accredited Investors	Amount	Number of Non- Accredited Investors	Amount	Yes	No
UT					-				
VT									
VA			!		i				
WA							l. ————————————————————————————————————		
WV									
WI					·				
WY									
PR			· · · · · · · · · · · · · · · · · · ·				· · · · · · · · · · · · · · · · · · ·		